UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/334,574 | 06/21/1999 | PAUL E. MASSOD | 10925/002001 | 5472 |

26161 7590 04/22/2003

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

| EXAMINER |
|---|
| LEE, DIANE I |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2876 | |

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Paper No. 27

Application Number: 09/334,574
Filing Date: June 21, 1999
Appellant(s): MASSOD, PAUL E.

**09/334,574**
For Appellant

**EXAMINER'S ANSWER**



This is in response to the appeal brief filed 07 February 2003.

***(1) Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

*(2) Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

*(3) Status of Claims*

The statement of the status of the claims contained in the brief is correct.

*(4) Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

*(5) Summary of Invention*

The summary of invention contained in the brief is correct.

*(6) Issues*

The appellant's statement of the issues in the brief is correct.

*(7) Grouping of Claims*

Appellant's brief includes a statement that claims 1-4, 6-16, and 18-36 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

*(8) Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

*(9) Prior Art of Record*

| | | |
|---|---|---|
| 5,794,213 | Markman | 11-1998 |
| 4,716,281 | Amacher et al. | 12-1987 |

*(10) Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 6-16, 18-27, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markman [US 5,794,213]; and claims 28-33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Markman in view of Amacher et al. [US 4,716,281]. These rejections are set forth in prior Office Action, Paper No. 17 and duplicated as below.

*Attention is directed to a typographical error in the Final Office Action (paper no. 17). Claim 27 was inadvertent grouped with claims 28-33 (in paragraph no. 5). Claim 27 should have been included in the rejection statement along with claims 1-4, 6-16, 18-26, and 34-36 (in paragraph no. 4). Since the limitation of claim 27 were addressed with those of claims 1-4, 6-16, 18-26, and 34-36, it is clear from the final rejection as a whole that claim 27 stands rejected over Markman alone within the meaning of 35 USC 103.*

I. Claims 1-4, 6-16, 18-**27**, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markman [US 5,794,213].

Markman discloses a method and an apparatus for verifying inventory in group which conducted in a dry cleaning establishment, comprising:

an input means 42 to record the article information and the total number of articles assigned in a group presented by the customer, and wherein the group of articles presented by the customer is a grouped order (see col. 5, lines 23+, col. 10, lines 66+);

a printer 30 to print tags 32 having unique sequential identification 50 to be affixed to the articles 24 (see figures 1-3). Markman further discloses that articles in a grouped order correspond to a transaction, and the machine readable codes 50 having an unique sequential identification on labels 32 including a group identification portion 34 and a sequential number concatenated to the group identification portion (i.e., subsequently numbering the tag with 1 to 4 with same group ID number as shown in figure 3). The tag also shows the total number of articles 52 in its group (see col. 5, lines 24+);

this process of assigning the article by the input means and affixing the tag to the article obviously implies that either manual or an automated grouping process physically groups the articles presented by the customer;

a scanner 70 to scan the machine-readable codes 50 on labels 32 (see figure 1);

a computer 72 having a storage media storing a computer program product which includes instructions for causing the computer to verify that articles in a grouped order belong in the grouped order. Upon scanning the group code on the labels, the computer verifies the articles belong in the physically grouped order. The verifying instructions includes a process of examining codes on tags associated with each article in the group to determine that the article belongs in the group. Thus, by scanning unique identifier codes on each tag, the examining process is performed (i.e., examining codes on tags associated with each article in the group to determined that the article belongs in the group). The verification process also includes the process of accessing a database to retrieve the number of articles in the group and matching numbers scanned from the labels on the article associated with the tags. This reference also teaches the process of retrieving the number of articles in the group and the process of matching numbers scanned from its group order (see col. 3, lines 65+, col. 5, lines 48+, col. 7, lines 33+, col. 8, lines 19+, 9, lines 45+, col. 11, lines 43+, and figures 1-2);

indicators 92, 94 for indicate to an operator if the scanned unique sequential identification corresponds to an item that belongs in the group and each group of articles is assigned to storage location 84 (see col. 8, lines 4+, col. 10, lines 12+ and figure 1). After the operator scans the tag, the data processor searches its memory 60 to determine whether the particular article is the first article encountered in its group. If the processor determines that the particular article is the first article encountered in its group, the data processor determines the total number of the articles it its group (i.e., the total number stored in the database) and selects the storage location 84 by sending a signal to the indicator, which corresponds to the selected storage location. This signaling process visually identifies

storage location to the operator if the scanned unique sequential identification corresponds to an item that belongs in the group (see col. 8, lines 1+ and figure 1-4).

If the article is not the first in its group, the data processor selects the correct storage location 84 (i.e., already assigned to previous members of the group) by sending its signal to the corresponding indicator (i.e., changing the signal indicator). This process of changing signal (i.e., from one storage indicator to another storage indicator) visually and positively indicates to the operator if the scanned unique sequential identification corresponds to an item that belongs in the group, while the absence of a signaled indicator provides information to the operator that the scanned article does not belong in the group (see col. 8, lines 23+ and figure 1-4). Markman also utilizes additional indicator such as different color of LED indicators and an audio signal to indicate that the count has reached the total number and the group has been successfully assembled (see col. 8, lines 30+). This reference also teaches that the data processor includes an instruction such as subtracting a base (i.e., a total number of articles in a group) from a portion of the unique sequential identification to provide the number of items in the group (see col. 8, lines 30).

Although Markman utilizes the indicators to positively indicate or convey different message to the operator (e.g., the scanned code belongs to corresponding assigned storage location, the count has reached the total numbers, and the group has been successfully assembled), this illustration of positively indicating process conversely conveys negative information to the operator, i.e., the scanned unique sequential code does not correspond to an item that belongs in the grouped order.

Since Markman teaches that additional indicating means can be utilized in the system to draw the attention of the operator, e.g., using different color of indicators, audio signal, and/or numerical readout (see col. 8, lines 1+), it would have been obvious to an artisan in the art at the time the invention was made to incorporate additional indicating means in the system of Markman in order to positively conveying to the operator that an article does not belong to the group. Accordingly, such modification

(i.e., providing a positive indication rather than a negative or an indirect indication) would have been an obvious extension of the teaching of Markman.

II. Claims 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markman in view of Amacher et al. [US 4,716,281-referred as Amacher]. The teachings of Markman have been discussed above.

Although Markman discloses different color of LEDs to indicate that the counting process has reached the total number and that the group has been successfully assembled, he does not disclose that the examining process includes specifically indicating to the operator the status of the verification process, i.e., verification has started, ended successfully, or ended unsuccessfully.

Amacher discloses a system having a plurality notification indicators 98, 100 to indicate the specific operation status to the operator, e.g., a green light indicator 100 for a successful scanning operation, red light indicator 98 for unsuccessful scanning process, and both lights extinguished when the scanning process has started (see col. 1, lines 50+, col. 5, lines 4+, and figure 2).

In view of Amacher's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to include the specific operation indicators of Amacher in the system of Markman in order to visually convey to the operator the specific steps of the verification status.

*(11) **Response to Argument***

Appellant contend with respect to claim 1, which is representative of the grouped claims of claims 1-2, 11-14, 23-24, and 34-36, that it is directed to a method of inventory management. First, Appellant argues that Markman does not teach the claimed feature of "**verifying that articles, article which were physically grouped by a manual or automated grouping process into a physically grouped order, belong to the physically grouped order**" (see page 9, 6th paragraph of the Appeal Brief). Appellant further stated that the examiner incorrectly relied on col. 5, lines 23+ and col. 10, lines

66+ of Markman for the step of indicating to an operator if the scanned unique sequential code does not correspond to an item that belongs in the grouped order (see page 10, lines 1+ of the Appeal Brief). The examiner respectfully disagrees. The examiner specifically referred to col. 5, lines 23+ and col. 10, lines 66+ of Markman for an input means 42, which records the article information and the total number of articles assigned in a group belonging to a customer, that the group of articles belonging to the customer is a grouped order (see page 2, lines 22+ of the Final Office Action, paper no. 17).

With respect to the specific claimed feature in claim 1, i.e., "verifying that articles, article which were physically grouped by a manual or automated grouping process into a physically grouped order, belong to the physically grouped order" includes two separate processes:

Process 1: articles are physically grouped by a manual **or** automated grouping process into a physically grouped order; and

Process 2: verifying that articles belong to the physically grouped order.

First, Markman teaches an input means 42 for recording the article information and the total number of articles assigned in a group belonging to a customer (the group of articles presented by the customer is a grouped order, see col. 5, lines 23+, col. 10, lines 66+), a printer 30 to print tags 32, which are affixed to the articles 24 (see figures 1-3). Therefore, this process of assigning the article by the input means and affixing the tag to the article obviously conveys to one of ordinary skill that the *articles presented by the customer were physically grouped by a manual* ***or*** *automated grouping process into a physically grouped order.*

Second, with respect to the process of *verifying that articles belong to the physically grouped order,* Markman teaches the process of verifying that a given article belongs to the physically grouped order by scanning the codes on the labels and examining the code on the tags that is associated with the article, i.e., the system of Markman provides an automated assistant for aiding an operator in managing

articles 24 in groups 26. When the operator scans the tag, the processor searches its memory 60 to determine whether or not the particular article is the first article in the group (see col. 8, lines 4+, col. 10, lines 12+ and figure 1). If the processor determines that the particular article is the first article in its group, the data processor determines the total number of the articles in the group and selects the storage location 84 by sending a signal to the indicator. This signaling process visually and positively indicates to the operator whether the scanned unique sequential identification corresponds to an item in the group (see col. 8, lines 1+ and figure 1-4). If the article is not the first article belonging to the group, the data processor selects the correct storage location 84 (i.e., already assigned to previous members of the group) by a signal to the corresponding indicator (i.e., changing the signal indicator). This process of changing signal (i.e., from one storage indicator to another storage indicator) visually and positively indicates to the operator if the scanned tag corresponds to an item that belongs in the group. Therefore, Markman teaches the process of comparing the assembled articles of each group with the printed or stored records and verifying that each group is complete and is neither missing articles nor holding an article belonging to another group.

With respect to Appellant's argument that Markman does not describe the claimed feature of positively indicating to an operator if the scanned unique sequential code does not correspond to an item that belongs in the grouped order (see page 10, lines 8+ of the Appeal Brief), the examiner respectively disagrees. In the previous Office action, the examiner pointed out that Markman teaches that the system includes plurality of storages 84. Each storage 84 is assigned for one group order and for placing the articles that belong to one grouped order (i.e., articles that having the same grouped order identification 34, 50, 52). Figure 1 shows that each storage 84 includes indicators 92, 94. When the indicator 92 lights up, the operator knows that the scanned article belongs in a particular group (i.e., positive indication). When the indicator 94 lights up, the operator knows that the group has been successfully assembled.

Thus, the indicators visually and positively indicate or convey the message to the operator (e.g., the scanned code belongs to corresponding assigned storage location, the count has reached the total numbers, and the group has been successfully assembled). This process of using LEDs includes a positive indicating process as well as a negative indicating process (i.e., the storage with signaling indicator is a positive indication, whereas, the storage without signaling indicator is a negative indication). Thus, when the indicator does not light up, the operator knows that the article attached to the scanned tag does not belong in the particular storage/grouped order. Therefore, the system of Markman verifies that an assembled group order (i.e., each customer's order) was correctly assembled. The examiner recognizes that Markman does not explicitly teach the process of positively indicating to an operator if the scanned unique sequential code does not correspond to an item belonging to the grouped order. However, Markman indicates and/or suggests a modification of the indicators such that additional indicating means can be utilized in the system to draw the attention of the operator, e.g., using different color of indicators, different operable modes of indicators, such as steady versus flashing or bright versus dim, an audio signal, and/or a numerical readout indicators (see col. 8, lines 1+). Therefore, it would have been obvious to an artisan of ordinary skill at the time the invention was made to incorporate additional indicating means or modify the indicating means of Markman in order to positively convey the information relating to the handling of the articles to positively indicate the status of the article handling process to the operator rather than negatively or indirectly conveying the message.

In response to Appellant's argument with respect to Markman failure to verify that an assembled order or group has been successfully completed (see page 10, lines 28+ of the Appeal Brief), the examiner respectfully disagrees. Markman teaches the total number of articles belonging to a customer is initially assigned to a group order, subsequently tagged with a group identification, and a sequential number concatenated to the group identification portion is affixed to the articles belonging to that group

order. Upon scanning the group code on the labels, the computer accesses the database of the system and retrieves the number of articles and identifies the group order that corresponds to the scanned unique sequential identification. The processor determines the total number of the scanned articles in its group and selects the storage location 84 by sending a signal to the indicator (illuminating an LED 92), which visually identifies that the scanned tag belongs in the indicated group. When placing the article in each storage 84 is completed or grouping of the article is completed and verified, the processor sends a completion signal to an LED 94. Therefore, once again, Markman clearly verifies that a subsequently assembled order or group was correctly performed according to the stored data of the grouped order.

In response to Appellant's argument with respect to claim 3, which is representative of the group of claims 3, 10, 15, 22 that Markman does not suggest that the scalable indicia includes unique sequential identification of the article in the group (see page 11, lines 4+ of the Appeal Brief), the examiner respectfully disagrees. Markman teaches that the tag 32 includes a group identification portion 34 and a subsequent number 52 appears on the scannable indicia 50 (see col. 7, lines 33+). Since Appellant has not clearly defined or described the sequential number in the claim, the count/total number 52 sequentially or sequentially placed next to the group identification portion 34 is a sequential number. Therefore, each tag 32 has unique sequential identification, which includes a group identification portion 34 with a sequent or sequential number portion 52, in a machine-readable format 50 (see figure 3).

Appellant's argument with respect to claims 28-33 that neither Markman nor Amacher separately or in combination teaches or suggests a method that indicates when a verification process has started, ended successfully, or ended unsuccessfully (see page 12, lines 25+ of the Appeal Brief) is not persuasive. Markman teaches the process of verifying an article belongs in a group order. Amacher reference teaches the process of specifically indicating to the operator that a process has started, ended

successfully, or ended unsuccessfully. Amacher discloses a system having a plurality notification indicators 98, 100 to indicate the specific operation process to the operator, e.g., a green light indicator 100 for a successful scanning operation, red light indicator 98 for unsuccessful scanning process, and both lights extinguished when the scanning process has started (see col. 1, lines 50+, col. 5, lines 4+, and figure 2). Accordingly, in view of Amacher's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to include specific operation indicators in the system of Markman in order to clearly convey the status of the operation.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
D. I. Lee
Primary Examiner
Art Unit 2876

D. L.
April 21, 2003

The appeal brief filed by the appellant was reviewed by conference in the examining group on 09 April 2003. The conferees of the appeal conference were:

Michael G. Lee (SPE, GAU 2876)

Olik Chaudhuri (SPE, GAU 2823)

Diane Lee (Examiner, GAU 2876)

DENIS G MALONEY
FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110-2804